

**RESOLUTION RESTRICTING USE OF
EMINENT DOMAIN**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: _____

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify provisions relating to the taking or damaging of private property for public use.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ limit the public uses for which private property may be taken;
- ▶ require private property taken for a public use to be owned and occupied by the taker;
- ▶ entitle the owner of taken property, or the owner's beneficiary or heir, to reacquire the property if the public use ceases;
- ▶ clarify that the Legislature may impose additional limitations on the taking of private property for public use; and
- ▶ makes a technical change.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2007 for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE I, SECTION 22



Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution Article I, Section 22, to read:

Article I, Section 22. [Private property for public use.]

(1) Private property [shall] may not be taken or damaged for public use without just compensation.

(2) The public uses for which private property may be taken or damaged are limited to utility and transportation corridors, airports, public safety facilities, waste management and sewage treatment facilities, water collection and distribution systems, and public education facilities.

(3) Private property that is taken for public use shall be owned and occupied by the taker.

(4) If the taken property ceases to be used for one of the public uses listed in Subsection (2), the owner from whom the property was taken, or the owner's beneficiary or heir if designated for this purpose, shall be entitled to reacquire the property for the lesser of:

(a) the fair market value of the property at the time the public use of the property ceases; and

(b) the amount paid for the property when it was taken.

(5) Nothing in this section may be construed to prevent the Legislature from imposing additional limitations on the taking of private property for public use.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2007.

Legislative Review Note

as of 1-30-06 8:46 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HJR029

Resolution Restricting Use of Eminent Domain*01-Feb-06**10:54 AM*

State Impact

Publication and distribution costs to put this resolution on the ballot will be \$11,500 from the General Fund.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund, One-Time	\$11,500	\$0	\$0	\$0
TOTAL	\$11,500	\$0	\$0	\$0

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst